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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/964,874 | 09/28/2001 | Yoshihisa Suzuki | 011299 | 1462 |

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EXAMINER

PSITOS, ARISTOTELIS M

ART UNIT PAPER NUMBER

2653

DATE MAILED: 06/24/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/964,874

Applicant(s)

SUZUKI ET AL.

Examiner

Aristotelis M Psitos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-13 and 24-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-13, 24-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Applicants' response of 4/5/04 has been considered with the following results.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the

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examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

1. Claim 24 is rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over the art as relied upon above with respect to claim 1 and either further considered with JP 2000-236188.

The examiner maintains the rejection from the previous OA, with the exception that as claimed, there is no requirement that the laser output be compensated. Hence, as argued by applicants' that the reference fails to disclose/teach such is not persuasive.

2. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kulakowski et al further considered with either Tsutsui or JP 08-306052.

Kulakowski et al teach in this environment the ability of having operational parameters set/established for initial set up –see the discussion with respect to figures 7 & 8, mode set up and default values.

Furthermore, Kulakowski et al also provides for various sensors. – see col. 2 lines 60 plus.

Although various values are re-set, there is no specific mentioning of focus offset.

Either of the secondary references to Tsutsui or the above noted JP document teaches in this environment the additional ability of correcting/compensating for focus offset during temp. variations.

It would have been obvious to modify the base system of Kulakowski et al with the above teachings from either of the secondary references; motivation is to ensure proper system operation during variations in temp.

Response to Arguments

Applicant's arguments filed 4/5/04 have been fully considered but they are not persuasive.

Applicants' arguments focus on the lack of the claimed "resetting means" with respect to the "internal temperature of the disc drive" The examiner concludes that the operational description found in col. 2 line 1 to col. 4 line 63 meets this limitation. A reference is evaluated for all that it teaches/discloses – see *In re Bode et al, 193 USPQ 12.*

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Additionally, applicants argue the limitations of claim 11 focusing on the resetting ability with respect to the most recently measured temperature. Applicants' attention is further drawn to col 5 line 623 to col. 6 line 48, wherein the temperature is measured at various times (poll) and hence the most recent temperature measurement is what establishes any need for correction and hence resets the previous established value.

3. Claims 12-13 and 26-27 are rejected under 35 U.S.C. 102/103(a) as obvious over Kulakowski et al further considered with either Takasugi or Davis.

Kulakowski et al is relied upon for the reasons stated above with respect to claim 11.

As further taught by either Takasugi or Davis, the additional ability of predicating corrections upon the output of the light emitting section in Takasugi – see discussion commencing at col. 1 lines 57-68 or in Davis – with respect to figure 1 – element 15.

It would have been obvious to modify the base system of Kulakowski et al with the above noted teachings from either of the secondary references; motivation is to appropriately compensate the laser output for temp. variations.

Response to Arguments

Applicant's arguments filed 4/5/04 have been fully considered but they are not persuasive.

Again, under 102 considerations, Kulakowski dynamically vary the duty ratio of the laser drive. Hence such dynamic variation does control (resetting) the output of the laser because such variation (duty cycle) controls the final laser output (on –off). Hence as interpreted by the examiner the claimed limitation (focusing upon controlling/resetting the laser output) is met.

Additionally, the examiner concludes that contrary to applicants' position against the 103 rejection, the references as a whole teach the ability to compensate for the same problem – see **Pro-Mold, 75 F.3d at 1573; Display Techs., Inc. v. Paul Flum Ideas, Inc. 282 F.3d 1340, 1346-47 (Fed. Cir. 2002); In re Huang, 100 F.3d 135, 139n.5 (40 USPQ2d 168 –Fed.Cir. 1996).**

Since as acknowledged by the primary references, disturbances in operational temperature causes problems with the system operating correctly and either/both secondary reference further teach

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compensation for temp. variations the references as a whole meet the claimed limitations under 103 considerations.

4. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 24 as stated in paragraph 1 above, and further in view of either Kulakowski et al or Takagi et al.

With respect to the limitation of claim 25, although the base references use appropriate control elements (controllers/microprocessors), there is no clear description with respect to detecting the variations in temperature for a plurality of times so as to yield the limitations focusing on the "most recently measured" value.

The examiner interprets the Kulakowski et al system as teaching in this environment the ability of providing for system operating control over different periods and hence providing for the "most recently" measured limitation of claim 25.

Alternatively, Takagi at col. 16 lines 7 plus describes a continuous measuring ability with respect to the temperature of the disc system.

It would have been obvious to modify the base system of the documents relied upon as stated in paragraph 8 above with the additional teachings from either Kulakowski et al or Takagi et al, motivation is to provide for a feedback ability on a continuous basis and hence provide for a dynamic controlled system.

Response to Arguments

Applicant's arguments filed 4/5/04 have been fully considered but they are not persuasive.

With respect to the lack of the "most recent time" correction ability, applicants' attention is drawn to col. 5 line 62 to col. 6 line 48. Since various polling of the sensors are disclosed, the last polling event is interpreted by the examiner as meeting the limitations with respect to "the most recent time".

Additionally, under 103 considerations, as further taught by Takagi at the above noted passages, the continuous measuring inherently implies/yields a measurement at "the most recent time".

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Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Applicants' attention is drawn to Oomura et al – entire document with respect to the discussion focusing upon drive current and temperature relationship(s) of the laser.

Hard copies of the application files are now separated from this examining corps, hence the examiner can answer no questions that requires a review of the file without sufficient lead-time.

Any inquiries concerning missing papers/references, etc. must be directed to Group 2600 Customer Services at (703) 306-0377.

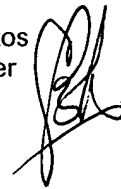
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M Psitos whose telephone number is (703) 308-1598. The examiner can normally be reached on M-Thursday 8 - 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William R. Korzuch can be reached on (703) 305-6137. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aristotelis M Psitos
Primary Examiner
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AMP